IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19 CV 344 MR WCM

DAVID L. SETTLEMYER and)
JANE SETTLEMYER)
)
         Plaintiffs,)
)   ORDER
v.)
)
BORG-WARNER MORSE TEC, LLC;)
BWDAC, INC.; CARLISLE)
INDUSTRIAL BRAKE & FRICTION)
INC.; CATERPILLAR, INC.; CBS)
CORPORATION; CERTAIN TEED)
CORPORATION; CONSOLIDATED)
TRUCK PARTS, INC.; CRA   )
TRAILERS INC.; CUMMINS, INC.;)
DAIMLER TRUCKS NORTH)
AMERICA LLC; DANA)
COMPANIES, LLC; EATON)
CORPORATION; FEDERAL-MOGUL)
ASBESTOS PERSONAL INJURY   )
TRUST; FORD MOTOR COMPANY;)
HEAVY DUTY PARTS, INC.;)
GENUINE PARTS COMPANY;)
KELSEY-HAYES COMPANY; MACK)
TRUCKS, INC.; NAVISTAR, INC.;)
PACCAR, INC.; PNEUMO ABEX, LLC)
)
         Defendants.)

_____

      Before the Court is Plaintiffs' Motion for Court Order for Release of David L. Settlemyer's Pathology Material (the "Motion," Doc. 107).

      By the Motion, Plaintiffs seek an order directing Anatomical Pathology, Atrium Health's Carolinas Medical Center, to release any and all of David L.

Settlemyer's pathology materials, including blocks, to his counsel of record. Doc. 107, pp. 1-2.

Subsequent to the filing of the Motion, the undersigned's chambers was notified that Defendant Pneumo Abex, LLC issued a subpoena to Atrium on September 22, 2020 for Mr. Settlemyer's pathology, that Atrium released the pathology, and that the pathology is in the possession of Pneumo Abex, LLC's expert.

Consequently, if all of the pathology materials that Plaintiffs seek from Atrium are now in the possession of Pneumo Abex, LLC, the Motion would presumably be moot.

IT IS THEREFORE ORDERED that on or before October 8, 2020, Plaintiffs are directed to file either:

1. A Notice stating that a ruling on the Motion remains necessary, including an explanation for such a position; or

2. A Notice withdrawing the Motion for Court Order for Release of David L. Settlemyer's Pathology Material.

Signed: October 5, 2020

W. Carleton Metcalf
United States Magistrate Judge